

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x

UNITED STATES OF AMERICA, :

- v - :

**ORDER**

JESUS MENDEZ, :

96 Cr. 317 (DC)

Defendant. :

----- x

**CHIN, Circuit Judge**

Represented by counsel, defendant Jesus Mendez has filed a request for issuance of a certificate of appealability under 28 U.S.C. § 2253(c) from my prior denial of his motion pursuant to 28 U.S.C § 2255 to vacate certain counts of conviction. *See* Dkt. No. 216. Mendez states that the question for review is whether a conviction under 18 U.S.C. § 924(c), for using a firearm during a "crime of violence," may stand when it is based on alternative predicates, at least one of which does not qualify as a crime of violence, and where the jury's general verdict does not indicate whether it relied on the qualifying or the non-qualifying predicate(s) as the requisite crime of violence. Dkt. No. 219 at 1.

A court may only grant a certificate of appealability "if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2255(c)(2). I find that Mendez has made such a showing and that his appeal would be

taken in good faith. *See* 28 U.S.C. § 1915(a)(3). Accordingly, Mendez's motion is

**GRANTED.**

Dated: New York, New York  
July 13, 2021

\_\_\_\_\_  
s/DC  
DENNY CHIN  
United States Circuit Judge  
Sitting by Designation